# IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

EMPLOYERS MUTUAL CASUALTY COMPANY,	)	
Plaintiff,	,	CIVIL ACTION NO: 2:05 -CV-01108-MEF
V.	)	
	)	
ARNBERG & ALLEN CONSTRUCTION,	)	
L.L.C.; STEPHEN D. ARNBERG,	)	
JIM ALLEN, MICHAEL O. LUNSFORD	)	
and DEBRA O. LUNSFORD.	)	
Defendants	)	
Defendants.	)	

# NOTICE OF FILING AFFIDAVIT OF TERRY HARDESTY IN SUPPORT OF EMPLOYERS MUTUAL CASUALTYCOMPANY'S MOTION FOR FINAL SUMMARY JUDGMENT

COMES NOW Plaintiff, Employers Mutual Casualty Company ("EMCC"), and hereby gives notice of and files the attached affidavit of Terry Hardesty in support of EMCC's motion for summary judgment.

Respectfully submitted,

/s/James A. Kee, Jr. ASB-4314-e68j /s/Cynthia A. Martin ASB-2044-i49c Attorneys for Plaintiff Employers Mutual Casualty Company

OF COUNSEL: KEE & SELBY, L.L.P. 1900 International Park Drive Suite 220 Birmingham, Alabama 35243 (205)968-9900 (phone) (205)968-9909 (fax)

### **CERTIFICATE OF SERVICE**

I do hereby certify that on December 1, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Richard H. Allen CAPELL HOWARD, PC P.O. Box 2069 Montgomery, Alabama 36102-2069

Robert Jackson Russell, Jr PARNELL & CRUM, PA P.O. Box 2189 Montgomery, Alabama 36102-2189

/s/Cynthia A. Martin ASB-2044-i49c

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EMPLOYERS MUTUAL CASUALTY COMPANY,	)	
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ARNBERG & ALLEN CONSTRUCTION,	)	
L.L.C.; STEPHEN D. ARNBERG, JIM ALLEN, MICHAEL O. LUNSFORD	)	
and DEBRA O. LUNSFORD.	)	
Defendants.	)	

### **AFFIDAVIT OF TERRY HARDESTY**

STATE OF ALABAMA	)
	)
SHELBY COUNTY	)

Before me, the undersigned, a Notary Public in and for the aforesaid county and state, personally appeared Terry Hardesty, who is known to me and who, having been duly sworn by me, deposes and says:

1. My name is Terry Hardesty. I am a resident citizen of the State of Alabama.

I am the claims supervisor for Employers Mutual Casualty Company

("EMCC") at all relevant times for this claim. I am over twenty-one (21)

years of age and have personal knowledge of the facts set forth in this

affidavit. I am competent to testify about the matters set forth in this affidavit made in support of EMCC's Motion for Summary Judgment.

EMCC was first informed of this claim on October 27, 2004 when 2. Thompson Insurance, Inc. faxed the notice to EMCC. The notice is attached hereto as Exhibit A.

Further the affiant saith not.

Done this the \_\_\_\_\_ day of November, 2006.

Terry Hardesty

**Employers Mutual Casualty Company** 

STATE OF ALABAMA) SHELBY COUNTY

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Terry Hardesty whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, Terry Hardesty executed the same voluntarily on the day the same bears date.

Given under my hand, this  $\frac{1}{6}$  day of November, 2006.

My Commission Expires: \_\_\_\_\_

Kim Cooper, Alabama State at Large

# Exhibit

Case 2:05-cv-01108-MFF-11	FM Document 26	Filed 12/01/2006	Page 6 of 6 P.O1
AAAA			
PRODUCER THONE (AIC, No. Ext): 334-277-8970	IY NOTICE OF	OCCURRENCE/CL	AIM OP D RM DATE
Thompson Insurance, Inc. 2951 Zelda Road (36106) P.O. Box 11408	NOTICE OF CLAIM  EFFECTIVE DATE EXPIR	10/26/04   POLICE	AM DATE OF CLAIM PREVIOUSLE REPORTER
Montgomery AL 36111-0408 George W. Thompson, III  CODE: SUB CODE: GUSTOMER ID: ARNBE-1	EMC Companies Policy NUMBER	ODE: MISC	CLAIMS MADE ELLANEOUS INFO (Site & location code) RENCE NUMBER
INSURED NAME AND ADDRESS	2K07242 CONTACT	Aure	RENCE NUMBER
SOC SEC N:	NAME AND ADDRESS	CONTACT INSURED	
Arnberg and Allen 55 Emerald Mountain Express Wetumpka AL 36093  RESIDENCE PHONE (AIC, No.)  BUSINESS PHONE (AIC, No., Exi  334 567-2001	3/91	(334) 5, 4-11,  ARELY  C, NO) BUSINESS PHONE (A)	WHEN TO CONTAC
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